

REMARKS

In the present Amendment, Claim 10 has been amended to add recitations pertaining to Formula (1). Section 112 support for this amendment may be found, for example, in paragraph [0031] of the specification. Claim 12 has been amended to change “a means to measure and output” to --a unit which measures and outputs--. No new matter has been added, and entry of the Amendment is respectfully requested.

Upon entry of the Amendment, Claims 1-12 will be pending.

In paragraph No. 1 of the Action, Claim 12 has been asserted to invoke 35 U.S.C. § 112, six paragraph.

As noted, Claim 12 has been amended to address the Examiner’s concern. Withdrawal of the interpretation of Claim 12 under 35 U.S.C. § 112, six paragraph, is respectfully requested.

In paragraph No. 2 of the Action, Claim 10 has been objected to as lacking antecedent bases.

As noted, Claim 10 has been amended to address the Examiner’s concern. Withdrawal of the objection to Claim 10 is respectfully requested.

In paragraph No. 4 of the Action, Claims 1-5, 8, 11 and 12 have been rejected under 35 U.S.C. § 102(e) as allegedly being unpatentable over Kalveram (US 2006/0098203).

Applicants submit that this rejection should be withdrawn because Kalveram is not prior art under 35 U.S.C. § 102(e) with respect to the present claims.

Kalveram was filed as a PCT application on November 14, 2003 with the PCT Application Number PCT/EP03/12724. Kalveram entered the national stage on September 29, 2005. The WIPO website indicates that PCT/EP03/12724 was published in the German

language as WO 2004/048881. In contrast, the present application has an international filing date of December 16, 2004.

An international application can be prior art under 35 U.S.C. § 102(e) only if the international application designated the United States and was published in the English language. *See* 35 U.S.C. § 102(e). Accordingly, the international filing date is not the filing date under 35 U.S.C. § 102(e), where the international application was not published in the English language. *See* MPEP § 706.02(f)(1)(I)(C).

In the present case, Kalveram was an international application published in the German language. In this regard, the international filing date of Kalveram cannot be the filing date for the purposes of 35 U.S.C. § 102(e).

Where the international application was not published in the English language, the national entry date may act as the filing date under 35 U.S.C. § 102(e). *See* MPEP § 706.02(f)(1)(I)(C). In the present case, the national entry date (September 29, 2005) of Kalveram is later in time than the international filing date (December 16, 2004) of the present application. In this regard, Kalveram is disqualified as prior art under 35 U.S.C. § 102(e).

Accordingly, reconsideration and withdrawal of the § 102(e) rejection of Claims 1-5, 8, 11 and 12 based on Kalveram are respectfully requested.

In paragraph No. 6 of the Action, Claim 6 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kalveram in view of Paritsky et al (US 2003/0173507).

Applicants submit that this rejection should be withdrawn for essentially the same reasons that the rejection of Claims 1-5, 8, 11 and 12 based on Kalveram should be withdrawn as discussed above.

In paragraph No. 7 of the Action, Claims 7, 9 and 10 have been objected to as being dependent upon a rejected base claim, but are indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants submit that Claims 7, 9 and 10 are allowable in their present form since Claim 1, from which Claims 7, 9 and 10 depend directly or indirectly, is patentable over Kalveram as discussed above.

Allowance is respectfully requested. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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